

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

United States of America,

v.

Dwight Lamar Spears,

Defendant.

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Civil Action. No. 7:08-CR-00112-JMC

OPINION & ORDER

This matter is before the court on Dwight Lamar Spears’ (“Spears”) pro se motion for the court to disclose grand jury materials. More specifically, Spears requests grand jury minutes and “any other relevant material pertaining to Grand Jury Miniutes [sic] pertaining to case United States of America v. Dwight Lamar Spears, No:10-4547 (7:08-cr-00112-HFF-3)” to challenge the grand jury on the grounds that it was “not lawfully drawn, summoned or selected and may challenge individual juror on the ground that the juror’s [sic] is not legally qualified.” [Doc. 244 at 1]. Although this motion is filed before the district court, Spears directs his request to the Fourth Circuit Court of Appeals to transfer to Spears a copy of the grand jury minutes.

On July 22 , 2008, Spears was found guilty after a jury trial to Count I of the indictment for conspiracy to murder a federal law enforcement officer in violation of 18 U.S.C. § 115 (a)(1)(A) (2006). Spears was sentenced to 240 months of imprisonment. [Doc. 144]. Spears appealed and the United States Court of Appeals for the Fourth Circuit affirmed in part, vacated in part, and remanded for re-sentencing under 18 U.S.C.A § 1114 (West. Supp. 2009). [Doc. 189]; *see also* United States

v. Spears, 350 Fed. Appx. 808 (4th Cir. 2009). On May 13th, 2010, the district court re-sentenced Spears to 240 months of imprisonment and corrected a clerical error on the judgment that Spears' sentence was to run concurrent, not consecutive. [Doc. 220]. Thereafter, on August 18, 2011, the district court entered a Third Amended Judgment correcting a clerical error that Spears was sentenced pursuant to 18 U.S.C.A § 1114. [Doc. 243].

“The court may authorize disclosure . . . of a grand-jury matter preliminarily to or in connection with a judicial proceeding.” Fed. R. Crim. P. 6(e)(3)(E)(i). Currently, there is no ongoing judicial proceeding concerning Spears' criminal case. Spears does not have a pending motion pursuant to 28 U.S.C. § 2255, and there is no other current judicial proceeding. Moreover, Spears has failed to identify any ground that “may exist to dismiss the indictment because of a matter that occurred before the grand jury.” Fed. R. Crim. P. 6(e)(3)(E)(ii).

Further, Spears has “failed to demonstrate a particularized need for his grand jury transcripts justifying disclosure” under Rule 6(e). *United States v. Kearse*, No. 01-7704, 2002 WL 256991, at *1 (4th Cir. Feb. 22, 2002) (unpublished).

It is therefore **ORDERED** that Spears's motion, [Doc. 244], is **DENIED**.

IT IS SO ORDERED.



United States District Judge

May 29, 2012
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

Movant is hereby notified of his right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.